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U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Global Connection, Inc.

Serial No. 74/684,250

Thomas E. Anderson of Gifford, Krass, Groh, Sprinkle, Patmore, Anderson & Citkowski, P.C. for Global Connection, Inc.

Cheryl S. Goodman, Trademark Examining Attorney, Law Office 102 (Tom Shaw, Acting Managing Attorney).

Before Cissel, Hohein, and Wendel, Administrative Trademark Judges.

Opinion by Hohein, Administrative Trademark Judge:

Global Connection, Inc. has filed an application to register the mark "TIFFIN CUSTOM FURNITURE" for "furniture, namely, racks for audio/visual components".[1]

Registration has been finally refused under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d), on the ground that applicant's mark, when applied to its goods, so resembles the

[1] Ser. No. 74/684,250, filed on June 5, 1995, which alleges dates of first use of October 1, 1994. The words "CUSTOM FURNITURE" are disclaimed.

mark "TIFFIN SYSTEMS," which is registered for "furniture, namely work benches; work tables; storage cabinets; mobile tool carts; accessories[,] namely shelves, drawers, risers, legs and tops for benches, tables and cabinets; and components therefor,"[2] as to be likely to cause confusion, mistake or deception.

Applicant has appealed. Briefs have been filed and an oral hearing was held. We affirm the refusal to register.

Turning first to consideration of the respective marks, applicant argues that the overall commercial impression of its "TIFFIN CUSTOM FURNITURE" mark differs from that of registrant's "TIFFIN SYSTEMS" mark. Such marks, while concededly sharing the term "TIFFIN," not only are visually and phonetically distinct, according to applicant, but are different in meaning. In consequence thereof, applicant insists that "[a] customer encountering the marks would be left with different commercial impressions."

While applicant is correct that the respective marks must be compared in their entireties, we agree with the Examining Attorney that, in articulating reasons for reaching a conclusion on the issue of likelihood of confusion, "there is nothing improper in stating that, for rational reasons, more or less weight has been given to a particular feature of a mark, provided [that] the ultimate conclusion rests on consideration of the marks in their entireties." In re National Data Corp., 753 F.3d 1056, 224 USPQ 749, 751 (Fed. Cir. 1985). For instance, "that a

[2] Reg. No. 1,438,073, issued on April 10, 1987, which sets forth dates of first use of March 1986; combined affidavit §§8 and 15. The word

particular feature is descriptive or generic with respect to the involved goods or services is one commonly accepted rationale for giving less weight to a portion of a mark ...." 224 USPQ at 751.

Here, as the Examining Attorney points out, the designation "TIFFEN is the dominant [and source-indicative] portion of both the applicant's and registrant's marks because the [disclaimed] terms CUSTOM FURNITURE in the applicant's mark and the term SYSTEMS in the registrant's mark are descriptive [if not generic] terms which are less significant" in forming the overall commercial impression of each mark. Inasmuch as "[t]he dominant portions of both marks are identical in appearance, sound and meaning," we agree with the Examining Attorney that, overall, the applicant's and registrant's marks project essentially the same commercial impression when used in connection with their respective goods. Clearly, if such substantially similar marks were to be used in conjunction with the same or closely related goods, confusion as to source or sponsorship would be likely to occur.

Considering, therefore, the extent to which the respective goods are either essentially the same in part or otherwise closely related, it is settled that a likelihood of confusion must be found if an applicant's use of its mark for the goods set forth in its application is likely to cause confusion with any of the goods listed in the registrant's registration for its mark. See, e.g., Tuxedo Monopoly, Inc. v. General Mills Fun Group, 648 F.2d 1335, 209 USPQ 986, 988 (CCPA 1981). Moreover,

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"SYSTEMS" is disclaimed.

as the Examining Attorney correctly observes, goods need not be identical or even competitive in nature in order to support a finding of likelihood of confusion. It is sufficient, instead, that the goods are related in some manner and/or that the circumstances surrounding their marketing are such that they would be likely to be encountered by the same persons under situations that would give rise, because of the marks employed in connection therewith, to the mistaken belief that they originate from or are in some way associated with the same producer or provider. See, e.g., Monsanto Co. v. Enviro-Chem Corp., 199 USPQ 590, 595-96 (TTAB 1978); and In re International Telephone & Telegraph Corp., 197 USPQ 910, 911 (TTAB 1978).

It is applicant's position, however, that its racks for audio and video components are substantially different from registrant's goods since the former "are designed to be cosmetically pleasing" and "to hold audio/video electronic equipment inside the home, such as in the living room, bedroom, or den." Ignoring, in its main brief, that registrant's goods include storage cabinets, applicant contends that:

> In contrast, Registrant's goods are various work benches and tool boxes. These goods may be classified as furniture for trademark [registration] purposes, but they are not furniture in the sense of furnishings and would not be found in a furniture or audio/video store. Work benches and tool boxes are typically designed to store tools and to provide work surfaces for the use of a mechanic or tradesman. A primary goal and selling point for these goods is their toughness rather than their physical appearance. These goods would typically be purchased by or for a mechanic or tradesman

> for use in a place of business or in a garage or workshop. ....

Applicant adds, in its reply brief, that unlike registrant's storage cabinets, its product "is not a 'storage rack', but rather a frame for assembling stereo/audio components into a tower." Asserting, furthermore, that the Examining Attorney "has not provided evidence to show that the [respective] goods are related," applicant maintains that confusion is not likely because:

> The channels of trade are so separate that the consumers of the respective goods are not going to encounter the respective ... products. Accordingly, the goods are not used or marketed in circumstances [in] which they are going to be found together or give rise to circumstances which would give consumers a belief that the goods come from the same source.

The Examining Attorney, on the other hand, contends in particular that "a rack for audio/video components is essentially a type of storage rack, and storage racks and storage cabinets are related goods." Such goods, she insists, "are often manufactured by the same entity, sold in the same channels of trade, and marketed to the same class of purchasers. As support for her position, the Examining Attorney has made of record five use-based third-party registrations for marks which, in each instance, are registered for "racks" or "storage racks," on the one hand, and "storage cabinets," on the other. Although such registrations are not evidence that the different marks shown therein are in use or that the public is familiar with them, they nevertheless have some probative value to the extent that they

serve to suggest that the goods listed therein are of a kind which may emanate from a single source. See, e.g., In re Albert Trostel & Sons Co., 29 USPQ2d 1783, 1785-86 (TTAB 1993) and In re Mucky Duck Mustard Co. Inc., 6 USPQ2d 1467, 1470 (TTAB 1988) at n. 6. In addition, the Examining Attorney has made of record excerpts from numerous articles retrieved during her searches of the "NEXIS" data base showing that, not only are "storage cabinets" commonly used to hold and display televisions, VCRs and/or stereo systems, but there are types of "storage cabinets" which, like applicant's racks, are designed especially for stereo and/or video components. For example, an article in an October 30, 1980 edition of the New York Times reports that the "design director of Designers Institute of America ... designed a series of storage cabinets to hold televisions, stereo sets and home computers." Likewise, another article from the January 25, 1987 issue of the St. Petersburg Times refers to "built-in storage cabinets for a TV, stereo, home computer or other den-type gear."

In view thereof, and since the instruction manual specimens of record show that applicant's racks for audio/visual components clearly serve, in light of the hinged glass doors thereon and adjustable shelves inside, as storage cabinets for such components in addition to being designed to display them in a stacked or tower configuration, we concur with the Examining Attorney that applicant's goods and registrant's storage cabinets are closely related, if not essentially identical, goods.[3] As

[3] We judicially notice, in this regard, that Webster's New World College Dictionary (3rd ed. 1997) at 193 defines "cabinet" in relevant

such, they would be sold through the same channels of trade, including home improvement centers and department stores, to the identical classes of purchasers.

Accordingly, we conclude that purchasers and prospective customers, familiar with registrant's "TIFFIN SYSTEMS" mark for furniture such as its storage cabinets, could reasonably believe, upon encountering applicant's substantially similar "TIFFIN CUSTOM FURNITURE" mark for its racks for audio/visual components, that such closely related if not essentially identical goods emanate from, or are otherwise sponsored by or affiliated with, the same source. In particular, even if consumers were to notice the different descriptive words in the respective marks, they could still reasonably conclude, in light of the presence of the shared source-indicative term "TIFFIN" therein, that registrant has expanded its storage cabinet systems to include such closely related custom furniture as racks for audio/visual components.

Decision: The refusal under Section 2(d) is affirmed.

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part as: "**1** a case or cupboard with drawers or shelves for holding or storing things ... **2** a boxlike enclosure ... that houses all the assembled components of a record player, radio or television, etc." Similarly, Webster's New Collegiate Dictionary (1979) at 151 lists such term in pertinent part as meaning: "**1 a :** a case or cupboard usu. having doors and shelves ... **c :** an upright case housing a radio or television receiver: CONSOLE". It is apparent, therefore, that registrant's "storage cabinets" would encompass the type of racks for audio/video components sold by applicant and that registrant's goods may be considered identical in part to applicant's goods. It is also pointed out that the Board may properly take judicial notice of dictionary definitions. See, e.g., Hancock v. American Steel & Wire Co. of New Jersey, 203 F.2d 737, 97 USPQ 330, 332 (CCPA 1953) and University of Notre Dame du Lac v. J. C. Gourmet Food Imports Co., Inc., 213 USPQ 594, 596 (TTAB 1982), *aff'd*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983).

R. F. Cissel

G. D. Hohein

H. R. Wendel
Administrative Trademark Judges,
Trademark Trial and Appeal Board